

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ROGER DWAYNE SMITH,

Plaintiff,

v.

Civil Action No. 2:14-17001

JOSHUA HYPES, Correctional Officer,
DANIEL HAHN, Correctional Officer,
DAVID BALLARD, Warden, Mount Olive
Correctional Complex, JIM RUBENSTEIN,
Commissioner, West Virginia Division
of Corrections, each in their individual
and official capacities,

Defendants.

MEMORANDUM OPINION AND ORDER

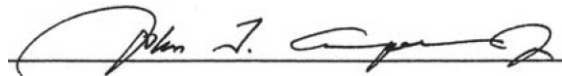
The court having received the Proposed Findings and Recommendation of United States Magistrate Judge Dwane L. Tinsley, filed on February 21, 2017, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B); and having reviewed the record in this proceeding; and there being no objections filed by any party to the proposed findings and recommendation; and it appearing proper so to do, it is ORDERED that the findings and conclusions made in the proposed findings and recommendation of the magistrate judge be, and they hereby are, adopted by the court.

It is, therefore, ORDERED that the defendants' motion for summary judgment be, and it hereby is, granted with respect to

plaintiff's supervisory liability claims against defendants Commissioner Rubenstein, Officer Hypes and Officer Hahn, and any claim against Officer Hypes and Officer Hahn for failure to protect Smith from harm concerning his suicide attempt. It is further ORDERED that defendants' motion for summary judgment be, and it hereby is, otherwise denied. The court will set a schedule for the remainder of the case by separate order in due course.

The Clerk is directed to forward copies of this written opinion and order to plaintiff, all counsel of record and the United States Magistrate Judge.

DATED: March 14, 2017

A handwritten signature in black ink, appearing to read "John T. Copenhaver, Jr.", is written over a horizontal line.

John T. Copenhaver, Jr.
United States District Judge